Alberta Energy Regulator

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Proceeding 432

September 25, 2023

By e-mail only

Avillia Developments Ltd.
Attention: Joe Marchese, Vice President
and Patrick Shaver, President

RE: Reconsideration of the Alberta Energy Regulator's Decision, Dated April 20, 2022
Amended Application No.: 1932335 dated January 14, 2022
Qualico Developments West Ltd.
Reconsideration No.: 1940992
Decision on Participation of Avillia Developments Ltd. (Avillia)

Dear Joe Marchese and Patrick Shaver:

I am writing on behalf of the Alberta Energy Regulator (AER) panel of hearing commissioners presiding over proceeding 432 (the panel). The panel has decided to permit Avillia's participation in the hearing of the application, limited to filing written submissions, speaking to its submissions in the hearing and being available for questioning by the panel and parties adverse in interest to Avillia.

On July 13, 2023, the AER issued a notice of hearing to reconsider its April 20, 2022, decision on amended application no. 1932335 brought by Qualico Developments West Ltd. (Qualico).

On July 21, 2023, Qualico requested an extension to the deadline for submitting requests to participate. On July 26, 2023, AER amended the notice of hearing and set a filing deadline of August 10, 2023, for requests to participate, and August 17, 2023, for responses to requests to participate.

Qualico, Pembina Pipeline Corporation (Pembina) and Plains Midstream Canada ULC (Plains) were noted as parties to the hearing and asked to confirm their intention to participate in the hearing. On August 10, 2023, Qualico, Pembina, and Plains confirmed their intention to fully participate in the hearing.

On July 31, 2023, the AER received Avillia's letter requesting to participate in the hearing. Avillia did not file a statement of concern.

Avillia said it has faced difficulty in reaching a surface crossing agreement with Pembina, as Avillia will be required to enter into a backstopping agreement. Avillia further stated that, in its view, the cost and timing of the proposed agreement with Pembina are unreasonable, and its project cannot sustain such a cost.

Avillia further said its project is nearly complete, and the pipeline crossing cost would threaten the completion of its project by making it nonviable. According to Avillia, if the AER decides the cost must be shared or entirely paid by the pipeline company, Avillia's project would become viable. Avillia wishes to participate in the hearing by presenting its experiences about the cost and timing of the pipeline crossing construction by Pembina and the negative impact of those on Avillia's project. The outcome Avillia is seeking is for the cost of the pipeline crossing to be the responsibility of the pipeline company.

Qualico did not provide a reply to Avillia's request to participate in the hearing. Pembina and Plains provided replies to the requests to participate, on August 17, 2023, and both stated they took no position with respect to the filed requests to participate.

Section 34(3) of the *Responsible Energy Development Act* states that: "... a person who may be directly and adversely affected by the application is entitled to be heard at the hearing". In addition, the *Alberta Energy Regulator Rules of Practice* (Rules) give the hearing panel discretion to grant participation status to persons who have a tangible interest and whose participation will materially assist without materially delaying the proceedings or repeating or duplicating evidence. The participation provisions in the Rules are intended to ensure a fair and efficient process and the development of a complete record that enables the panel to carry out its mandate.

Based on the panel's review of Avillia's submissions, Avillia has established it has a tangible interest in the subject of this hearing. Avillia demonstrated that it has past and current experiences in dealing with matters relevant to this hearing. Furthermore, the panel notes that the parties to this proceeding did not object to Avillia's application to participate. In the panel's view, Avillia's participation could materially assist the panel in making its decision on the application. For the above reasons and subject to further directions or rulings issued by the panel, the panel has decided to permit Avillia's participation in the hearing to the following extent:

- filing written submissions according to the schedule to be set by the panel,
- speaking to its submissions in the hearing, and
- being available for questioning by the panel and by parties adverse in interest to Avillia.

The panel would like to remind Avillia that the panel will only be able to decide the application subject of this proceeding, filed by Qualico, and no other pipeline crossings.

The panel encourages participants to seek opportunities to coordinate their efforts with others, if possible, to avoid duplication of evidence and provide for an efficient and timely process. This does not preclude separate submissions and appearances at the hearing.

If you have any questions, please contact the undersigned at hearing.services@aer.ca.

Sincerely,

Elaine Arruda

Hearing Coordinator

cc: D. Brezina and A. Huxley, AER Panel Counsel
G. Fitch, McLennan Ross LLP (Qualico Developments West Ltd.)
S. Munro, Bennett Jones LLP (Pembina Pipeline Corporation)
D. Naffin, Bennett Jones LLP (Plains Midstream Canada ULC)
S. Fash, BILD Alberta
C. Nicholas, MLC Group Inc.
K. Rowe, Cantiro Group LP
K. Anderson, Urban Development Institute – Edmonton Metro
S. Duncanson, Osler, Hoskin & Harcourt LLP (Keyera Corporation)
I. Radzichowsky and K. Welland, Secure Energy Services Inc.
E. Dixon and M. Cherkawsky, McLennan Ross LLP (Brookfield Residential (Alberta) LP)
M. Davis, Melcor Developments Ltd.
S. Gerein, Qualico Developments West Ltd.